

Revised 03/06 WDNV

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORKFORM TO BE USED IN FILING A CIVIL COMPLAINT IN FEDERAL COURT
(Non-Prisoner Context)

24 CV 1054 JLS

All material filed in this Court is now available via the INTERNET. See Pro Se Privacy Notice for further information.

1. CAPTION OF ACTION

A. **Full Name of Plaintiff:** NOTE: If more than one plaintiff files this action and seeks in forma pauperis status, *each* plaintiff must submit an in forma pauperis application or the only plaintiff to be considered will be the plaintiff who filed an application.

Randall A. Barber

-VS-

B. **Full Name(s) of Defendant(s)** NOTE: Pursuant to Fed.R.Civ.P. 10(a), the names of all parties must appear in the caption. The court may not consider a claim against anyone not identified in this section as a defendant. Add a separate sheet, if necessary.

1. Darrell K Iute

4. Kevin C. Burleson

2. John R. Searles

5. Courtney Spittler

3. Cattaraugus County Board
of Elections

6.

2. STATEMENT OF JURISDICTION, VENUE and NATURE OF SUIT

All of these sections **MUST** be answered

Identify the basis for federal Court jurisdiction over your claim, such as that the United States government is a party to the action, all the parties reside in different states and therefore you claim diversity jurisdiction, or the claim presents a federal question or arises under federal law.

A. Basis of Jurisdiction in Federal Court: The defendants have violated my civil rights and Federal law by denying my fair request for the 2022 General Election and the appeal ~~of~~ ^{was} filed in response to their original denial. State why the Western District of New York is the proper venue for this action, such as that your claim arises in or the defendant resides in the 17 westernmost counties of New York State.

B. Reason for Venue in the Western District: The violations took place in Cattaraugus County which is within the Western District Courts jurisdiction

Identify the nature of this action, such as that it is a civil rights claim, a personal injury or personal property (tort) claim, a property rights claim, or whatever it is.

C. Nature of Suit: Civil rights and violation of federal election law

3. PARTIES TO THIS ACTION

PLAINTIFF'S INFORMATION NOTE: To list additional plaintiffs, use this format on another sheet of paper.

Name of First Plaintiff: Randall A. Barber

Present Address: 3918 Handscribble Rd.
RANDOLPH, N.Y. 14772

Name of Second Plaintiff: _____

Present Address: _____

DEFENDANT'S INFORMATION NOTE: To list additional defendants, use this format on another sheet of paper.

Name of First Defendant: Darrell Klute

Official Position of Defendant (if relevant): Cattaraugus County Clerk

Address of Defendant: 303 Court Street
Little Valley, N.Y. 14755

Name of Second Defendant: John R. Searles

Official Position of Defendant (if relevant): County Administrator/Records Appeals Officer

Address of Defendant: 303 Court Street
Little Valley, N.Y. 14755

Name of Third Defendant: Cattaraugus County Board of Elections

Official Position of Defendant (if relevant): _____

Address of Defendant: 207 Rock City Street
Little Valley, N.Y. 14755

4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT

A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes ☐ No ☒

If Yes, complete the next section. NOTE: If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): _____

3. PARTIES TO THIS ACTION

PLAINTIFF'S INFORMATION NOTE: To list additional plaintiffs, use this format on another sheet of paper.

Name of First Plaintiff: _____

Present Address: _____

Name of Second Plaintiff: _____

Present Address: _____

DEFENDANT'S INFORMATION NOTE: To list additional defendants, use this format on another sheet of paper.

Name of ^{1st} Defendant: Kevin Burkson

Official Position of Defendant (if relevant): Democrat Election Commissioner

Address of Defendant: 207 Rock City Street

Little Valley, N.Y. 14755

Name of ^{2nd} Defendant: Courtney Spittler

Official Position of Defendant (if relevant): Republican Election Commissioner

Address of Defendant: 207 Rock City Street

Little Valley, N.Y. 14755

Name of Third Defendant: _____

Official Position of Defendant (if relevant): _____

Address of Defendant: _____

4. PREVIOUS LAWSUITS IN STATE AND FEDERAL COURT

A. Have you begun any other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes ☐ No ☒

If Yes, complete the next section. NOTE: If you have brought more than one lawsuit dealing with the same facts as this action, use this format to describe the other action(s) on another sheet of paper.

1. Name(s) of the parties to this other lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. Court (if federal court, name the district; if state court, name the county): _____

3. Docket or Index Number: _____

4. Name of Judge to whom case was assigned: _____

5. The approximate date the action was filed: _____

6. What was the disposition of the case?

Is it still pending? Yes ☐ No ☐

If not, give the approximate date it was resolved. _____

Disposition (check those statements which apply):

☐ Dismissed (check the statement which indicates why it was dismissed):☐ By court *sua sponte* as frivolous, malicious or for failing to state a claim upon which relief can be granted;☐ By court for failure to prosecute, pay filing fee or otherwise respond to a court order;☐ By court due to your voluntary withdrawal of claim;☐ Judgment upon motion or after trial entered for☐ plaintiff☐ defendant.

5. STATEMENT OF CLAIM

Please note that it is not enough to just list the ground(s) for your action. You **must** include a statement of the facts which you believe support each of your claims. In other words, just tell the story of what happened and do not use legal jargon.

Fed.R.Civ.P. 8(a) states that a pleading must contain "a short and plain statement of the claim showing that the pleader is entitled to relief." "The function of pleadings under the Federal Rules is to give fair notice of the claim asserted. Fair notice is that which will enable the adverse party to answer and prepare for trial, allow the application of res judicata, and identify the nature of the case so it may be assigned the proper form of trial." Simmons v. Abruzzo, 49 F.3d 83, 86 (2d Cir. 1995).

Fed.R.Civ.P. 10(b) states that "[a]ll averments of claim ... shall be made in numbered paragraphs, the contents of each of which shall be limited as far as practicable to a single set of circumstances."

A. FIRST CLAIM: On (date of the incident) ~~Darrell Klute~~ September 27, 2024

defendant (give the name and (if relevant) the position held of each defendant involved in this incident) _____

Darrell Klute, Cattaraugus County Board of Elections
Kevin Burleson, Cortney Spittler

did the following to me (briefly state what each defendant named above did): Violated my civil rights and Federal law by denying my foil request to obtain the 2022 General Election Cast Vote Records

The federal basis for this claim is: Hava law Section 301.a. 2
National Institute of Standards and Technology

State briefly exactly what you want the Court to do for you. Make no legal arguments and cite no cases or statutes:

Seeking a declaratory judgement

B. SECOND CLAIM: On (date of the incident) Oct. 9, 2024

defendant (give the name and (if relevant) position held of each defendant involved in this incident)

John R. Searles, Cattaraugus County Board of Elections
Kevin Burleson, Cortney Spittler

did the following to me (briefly state what each defendant named above did): Denied my second submission with attachment and appeal to provide me with the 2022 General Election Cast Vote Records Violating my civil rights and Federal law.

The federal basis for this claim is: Hava law section 301.a. 2
National Institute of Standards and Technology

State briefly exactly what you want the Court to do for you. Make no legal arguments and cite no cases or statutes:

Seeking a declaratory judgement

If you have additional claims, use the above format to set them out on additional sheets of paper.

6. SUMMARY OF RELIEF SOUGHT

Summarize the relief requested by you in each statement of claim above.

Seeking a declaratory judgement

Do you want a jury trial? Yes ☐ No ☒

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 10/30/2024
(date)

NOTE: Each plaintiff must sign this complaint and must also sign all subsequent papers filed with the Court.

Randall A. Barber

Signature(s) of Plaintiff(s)

Sworn to before me
On 10/30/2024
Jacquelyn A. Learn

Jacquelyn A. Learn
#01LE5013013
Notary Public, State of New York
Qualified in Cattaraugus County
Commission Expires 7/15/2027

CIVIL COVER SHEET

24 CV 1054

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Randall A. Barber

(b) County of Residence of First Listed Plaintiff Cattaraugus
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

DEFENDANTS

Darrell Klute, John R. Searles,
Cattaraugus County Board of Elections,
Kevin Burkeson, Coraey SpittlerCounty of Residence of First Listed Defendant Cattaraugus

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

OCT 30 2024

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|---------------------------------------|---------------------------------------|---|---------------------------------------|---------------------------------------|
| Citizen of This State | <input checked="" type="checkbox"/> 1 | <input checked="" type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input checked="" type="checkbox"/> 4 | <input checked="" type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for: [Nature of Suit Code Descriptions.](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 625 Drug Related Seizure	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 623 Withdrawal of Property 21 USC 881	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 424 Copyrights	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 330 Federal Employers' Liability		<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine		<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability		<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 350 Motor Vehicle		<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle Product Liability		<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury		<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice		<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability			<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise			<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 850 Securities/Commodities/Exchange
			<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 890 Other Statutory Actions
				<input type="checkbox"/> 891 Agricultural Acts
				<input type="checkbox"/> 893 Environmental Matters
				<input checked="" type="checkbox"/> 895 Freedom of Information Act
				<input type="checkbox"/> 896 Arbitration
				<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
				<input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from Another District (specify)
- ☐ 6 Multidistrict Litigation - Transfer
- ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

Hava law Section 301a.2 NIST

Brief description of cause:

Denial of foil request and appeal

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

ATE

SIGNATURE OF ATTORNEY OF RECORD

OR OFFICE USE ONLY

RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE